

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

KENYATTA CURSEY,

Plaintiff,
v.
Case No. 21-cv-0906-bhl

ZACHARY SCHROEDER,

Defendant.

DECISION AND ORDER

Plaintiff Kenyatta Cursey is representing himself in this 42 U.S.C. §1983 case. He is proceeding on deliberate indifference and equal protection claims against Defendant Zachary Schroeder based on Schroeder’s alleged failure to protect Cursey from his cellmate’s sexual harassment. On March 21, 2022, Cursey filed a proposed amended complaint. Dkt. No. 23. But Cursey did not comply with Fed. R. Civ. P. 15(a)(2) or Civil L. R. 15. Given that Schroeder served his answer more than twenty-one days ago, Cursey may amend his complaint only with the Court’s permission or Defendant’s written consent. *See* Fed. R. Civ. P. 15(a)(2). Cursey has not satisfied either requirement; he has not asked for (or received) the Court’s permission and has not obtained written consent from Schroeder. Cursey also fails to comply with Civil L. R. 15, which requires that an amendment to a pleading “reproduce the entire pleading as amended” and be “filed as an attachment to [a] motion,” which “must state specifically what changes are sought by the proposed amendments.” Given Cursey’s failure to follow these rules, the Court will strike his proposed amended complaint.

Further, even if Cursey had complied with these rules, the Court would not have granted leave to amend because it would be futile to allow Cursey to amend his complaint as set forth in the proposed amended complaint. *See Foman v. Davis*, 371 U.S. 178, 182 (1962). The proposed amended complaint is nearly identical to Cursey's original complaint. It appears that Cursey added a few document references and limited factual allegations, but these additions gain him nothing. Cursey is already proceeding on claims against Schroeder, and the Court explained in the screening order why he fails to state claims against Dan Cromwell, Kevin Carr, and the State of Wisconsin. None of the additions in the proposed amended complaint alter that analysis. If Cursey believes he has located evidence supporting his version of what happened, he may present that evidence at summary judgment; he does not need to amend his complaint to include it.

IT IS THEREFORE ORDERED that the proposed amended the complaint (Dkt. No. 23) is **STRICKEN**.

Dated at Milwaukee, Wisconsin on March 28, 2022.

s/ Brett H. Ludwig
BRETT H. LUDWIG
United States District Judge